IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4096 of 1995

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MADHAVRAO S AVATE

Versus

CHAIRMAN

Appearance:

1. Special Civil Application No. 4096 of 1995

MR JV BHAIRAVIA for Petitioner No. 1

MR VIJAY H PATEL for Respondent No. 1-2

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 03/11/2004

ORAL JUDGEMENT

1. The grievance of the petitioner is that, though the petitioner is qualified to be appointed on the post

of Driver on permanent basis and also working as a driver in the temporary establishment, his case was not considered by the respondent-Municipality. It is submitted by the petitioner that the action of the respondent-Municipality to give an advertisement to recruit the drivers from the open market without considering the case of the petitioner is illegal and arbitrary. It is further submitted by the petitioner that he made a representation to the respondent-Municipality on 25th April 1995, which also still remains undecided.

2. The Court issued rule in the matter on 7th February 1996.

3. The Chief Officer of the Amreli Nagarpalika has filed affidavit-in-reply. In paragraph 4 of the affidavit-in-reply, it is stated that the petitioner is only a rojamdar though temporarily working as a driver. It is further stated that the petitioner had registered a false entry when a fire fighter of the Municipality driven by him met with an accident. It is further stated that the representation of the petitioner did not deserve any objective consideration since the petitioner did not deserve any appointment or promotion. It is further stated that the Government Resolution dated 28th October 1991 is not applicable to the facts of the present case.

4. The grievance of the petitioner may be legal or otherwise, but, when a representation is submitted to the concerned Authority about the injustice meted out to an employee, the Authority is, at least, duty bound to answer to the representation. With regard to the service conditions, the very first remedy available to the employee is to represent his case before the concerned Authority. It is an admitted fact that the petitioner made a representation to the respondent-Municipality on 25th April 1995, and it still remains undecided.

5. In the facts and circumstances of the case, the respondents-Authorities are directed to consider the representation dated 25th April 1995 submitted by the petitioner to the respondent-Nagarpalika and to pass orders in accordance with law as expeditiously as possible, preferably within three months from the date of receipt of this order.

6. With the aforesaid direction, Rule is discharged with no order as to costs.

(Anant S. Dave, J.)

(swamy)